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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,496	<b>Applicant(s)</b> STARNES ET AL.	
	<b>Examiner</b> Namrata Boveja	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This office action is in response to communication filed on 11/25/2005.
2. Claims 1-26 are presented for examination.
3. Prosecution on the merits of this application is reopened on claims 1-26 considered unpatentable for the reasons indicated below: the claimed invention is obvious in view of Gozdeck et al Patent Number 6,636,852 and Berkson Patent Number 6,049,779.

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7, 8, 10, 16, and 17 are rejected under 102(b) as being anticipated by Gozdeck et al (Patent Number 6,636,852 hereinafter Gozdeck).

In reference to claim 1, Gozdeck teaches a computer implemented method of providing a customer service agent with variable compensation information, wherein the agent earns both fixed compensation and variable compensation for handling customer inquiries, the method comprising: displaying to the agent a current amount of variable compensation for the agent based on the agent's current performance level in handling customer inquiries (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3); displaying to the agent a graphical user interface adapted to

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allow the agent to interactively change the agent's performance level (col. 2 lines 11-14 and 40-45, col. 5 lines 18-31 and 44-52, col. 6 lines 33-53, col. 8 lines 30-33, and Figure 3); and displaying to the agent a change in the amount of variable compensation based on the change in the agent's performance level (col. 5 lines 44 to col. 6 lines 53, col. 7 lines 47 to col. 8 lines 33, and Figures 1 and 3).

5. In reference to claims 10, Gozdeck teaches a computer implemented user interface for providing variable compensation information to agents, the user interface provided by a computer application executing on a computer system (Figure 3), the user interface comprising: a display window including a current performance measure for the agent and a current variable compensation amount based on the current performance measure (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3); and at least one interactive graphical element that is adapted to be directly manipulated by the agent to change the agent's current performance measure, wherein the current variable compensation amount is automatically adjusted in response to the change in the performance measure (col. 2 lines 11-14 and 40-45, col. 5 lines 18-31 and 44-52, col. 6 lines 33-53, col. 8 lines 30-33, and Figure 3).

6. In reference to claims 7 and 16, Gozdeck teaches the method, further comprising: determining the agent's performance in comparison with other agents in a cohort including the agent (col. 7 lines 37-44).

7. In reference to claims 8 and 17, Berkson teaches the method, further comprising: displaying to the agent in an interface, a minimum measure of performance (i.e. forecasting using hypothetical sales scenarios) for the agent to

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be eligible for the variable compensation (abstract, col. 2 lines 34-45, col. 4 lines 1-7, col. 7 lines 39-44, and col. 8 lines 29-33).

8. Claims 19-26 are rejected under 102(b) as being anticipated by Berkson (Patent Number 6,049,779 hereinafter Berkson).

In reference to claim 19, Berkson teaches a computer implemented system for determining variable compensation for call center agents (col. 2 lines 45-54), the system comprising: a telephone system including telephones to allow call center agents to provide help to customers over the telephones (col. 7 lines 35-48) and a workstation adapted for monitoring the call center agents' use of the telephones (col. 7 lines 42-54), the monitor collecting data including when the call center agents are logged on to the telephone system (i.e. tracking amount of time agent has worked) (col. 6 lines 62-67), how many calls the call center agents receive (col. 6 lines 38-41 and col. 9 lines 19-34) , and whether the calls the call center agents receive are transferred by the call center agents to a customer feedback system (col. 4 lines 44 to col. 5 lines 16 and col. 8 lines 52 to col. 9 lines 12); a customer feedback system for receiving calls transferred by call center agents, and determining from the customers on the received calls a satisfaction level of the customers (col. 4 lines 26-65, col. 8 lines 52 to col. 9 lines 12, and col. 11 lines 56 to col. 12 lines 23); a call database connected to the telephone system for receiving and storing data indicative of how many calls the call center agents receive and whether the calls the call center agents receive are transferred by the call center agents (col. 6 lines 31-49, col. 7 lines 42-54, and col. 9 lines 4-12); a schedule database connected to the telephone system

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for receiving and storing data indicative of when the call center agents are logged on to the telephone system (i.e. tracking amount of time agent has worked, so this information must be stored in some type of a database) (col. 6 lines 62-67) ; a feedback database connected to the customer feedback system for receiving and storing data indicative of whether customers inquiries were resolved and the overall satisfaction of the customers for each call center agent (col. 7 lines 42-54, col. 8 lines 52 to col. 9 lines 12, and col. 11 lines 65 to col. 12 lines 4); a processor for receiving information from the call database, the schedule database, and the feedback database and, based on the received information, calculating variable compensation (i.e. are "winnings" associated with playing games) for each call center agent (col. 3 lines 49-55, col. 4 lines 49-65, col. 6 lines 13-19, col. 8 lines 66 to col. 9 lines 4, and col. 10 lines 41-48); and a display tool for receiving the calculated variable compensation for a call center agent and displaying the variable compensation (i.e. variable compensation includes prizes earned in games and bonus points rewarded by supervisors and customers, since all of these rewards are based on the performance of the agent during a given call, and this compensation information is either displayed on the computer screen of the agent immediately after playing a game or is tracked in the prize pool bank) in real time to a call center agent (col. 3 lines 65 to col. 4 lines 4, col. 4 lines 52-65, col. 7 lines 15-34, col. 8 lines 24-32, col. 10 lines 41-48, and Figure 1).

9. In reference to claim 20, Berkson teaches a computer implemented method for determining variable compensation for a call center agent (col. 2 lines

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39 to col. 3 lines 12), the method comprising: collecting information on the number of customer support telephone calls received (i.e. completed) by the call center agent (col. 6 lines 38-41 and col. 9 lines 19-34); collecting information on the times that the call center agent works (col. 6 lines 62-67); collecting customer satisfaction information of customers handled by the call center agent (col. 4 lines 44-65, col. 7 lines 28-34, and col. 9 lines 13-34); calculating, based on the collected information and in response to a received command, a variable compensation amount for the call center agent (col. 3 lines 65 to col. 4 lines 4, col. 4 lines 52-65, col. 7 lines 15-34, col. 8 lines 24-32, col. 10 lines 41-48, and Figure 1); and displaying the calculated variable compensation (i.e. variable compensation includes prizes earned in games and bonus points rewarded by supervisors and customers, since all of these rewards are based on the performance of the agent during a given call, and this compensation information is either displayed on the computer screen of the agent immediately after playing a game or is tracked in the prize pool bank) amount to allow the call center agent to determine the variable compensation (col. 3 lines 65 to col. 4 lines 4, col. 4 lines 52-65, col. 7 lines 15-34, col. 8 lines 24-32, col. 10 lines 41-48, and Figure 1).

10. In reference to claim 21, Berkson teaches the method, further comprising: determining the agent's current performance level as a function of customer satisfaction measure of the agent's handling of customer inquiries (col. 4 lines 44-65, col. 7 lines 28-34, and col. 9 lines 13-34).

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11. In reference to claim 22, Berkson teaches the method, further comprising: determining the agent's current performance level as a function of the agent's compliance with a work schedule (col. 6 lines 62-67).

12. In reference to claim 23, Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a number of customer inquires handled per time period (col. 6 lines 38-41 and col. 9 lines 19-34).

13. In reference to claim 24, Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a measure of customer inquires resolved (i.e. problem solving success rate) by the agent (col. 8 lines 52 to col. 9 lines 12, col. 9 lines 19-34, and col. 11 lines 56 to col. 12 lines 23).

14. In reference to claim 25, Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a rate of customer inquires transferred by the agent to a customer satisfaction survey system (col. 4 lines 44 to col. 5 lines 16 and col. 8 lines 52 to col. 9 lines 12).

15. In reference to claim 26, Berkson teaches the method, further comprising: determining the agent's performance in comparison with other agents in a cohort including the agent (col. 3 lines 13-30, col. 6 lines 31-67, and col. 11 lines 10-13).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject



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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2-6, 9, 11-15, and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Gozdeck.

Claims 2-6 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gozdeck in view of Berkson.

17. In reference to claims 2 and 11, Gozdeck teaches the user interface (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3). Gozdeck does not teach the method teach the method, further comprising: determining the agent's current performance level as a function of customer satisfaction measure of the agent's handling of customer inquiries. Berkson teaches the method, further comprising: determining the agent's current performance level as a function of customer satisfaction measure of the agent's handling of customer inquiries (col. 4 lines 44 to col. 5 lines 16, col. 7 lines 28-34, and col. 8 lines 52 to col. 9 lines 34). It would have been obvious to modify Gozdeck to include determining the agent's current performance level as a function of customer satisfaction measure of the agent's handling of customer inquiries in order to customize Gozdeck's variable compensation tool for call center agent performance monitoring and to use the tool in that environment using the metrics that matter the most to the call center business enterprise.

18. In reference to claims 3 and 12, Gozdeck teaches the user interface (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines

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11-33, and Figures 1 and 3). Gozdeck does not teach the method, further comprising: determining the agent's current performance level as a function of the agent's compliance with a work schedule. Berkson teaches the method, further comprising: determining the agent's current performance level as a function of the agent's compliance with a work schedule (col. 6 lines 62-67). It would have been obvious to modify Gozdeck to include determining the agent's current performance level as a function of the agent's compliance with a work schedule in order to customize Gozdeck's variable compensation tool for call center agent performance monitoring and to use the tool in that environment using the metrics that matter the most to the call center business enterprise.

19. In reference to claims 4 and 13, Gozdeck teaches the user interface (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3). Gozdeck does not teach the method, further comprising: determining the agent's current performance level as a function of a number of customer inquiries handled per time period. Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a number of customer inquiries handled per time period (col. 6 lines 38-41 and col. 9 lines 19-34). It would have been obvious to modify Gozdeck to include determining the agent's current performance level as a function of a number of customer inquiries handled per time period in order to customize Gozdeck's variable compensation tool for call center agent performance monitoring and to use the tool in that environment using the metrics that matter the most to the call center business enterprise.

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20. In reference to claims 5 and 14, Gozdeck teaches the user interface (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3). Gozdeck does not teach the method, further comprising: determining the agent's current performance level as a function of a measure of customer inquiries resolved (i.e. problem solving success rate) by the agent. Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a measure of customer inquiries resolved (i.e. problem solving success rate) by the agent (col. 8 lines 52 to col. 9 lines 12, col. 9 lines 19-34, and col. 11 lines 56 to col. 12 lines 23). It would have been obvious to modify Gozdeck to include determining the agent's current performance level as a function of a measure of customer inquiries resolved (i.e. problem solving success rate) by the agent in order to customize Gozdeck's variable compensation tool for call center agent performance monitoring and to use the tool in that environment using the metrics that matter the most to the call center business enterprise.

21. In reference to claims 6 and 15, Gozdeck teaches the user interface (abstract, col. 5 lines 31-34 and 65-66, col. 7 lines 10-21 and 39-64, col. 8 lines 11-33, and Figures 1 and 3). Gozdeck does not teach the method, further comprising: determining the agent's current performance level as a function of a rate of customer inquiries transferred by the agent to a customer satisfaction survey system. Berkson teaches the method, further comprising: determining the agent's current performance level as a function of a rate of customer inquiries transferred by the agent to a customer satisfaction survey system (col. 4 lines 44

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to col. 5 lines 16 and col. 8 lines 52 to col. 9 lines 12). It would have been obvious to modify Gozdeck to include determining the agent's current performance level as a function of a measure of customer inquiries transferred by the agent to a customer satisfaction survey system by the agent in order to customize Gozdeck's variable compensation tool for call center agent performance monitoring and to use the tool in that environment using the metrics that matter the most to the call center business enterprise.

22. In reference to claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gozdeck. In reference to claims 9 and 18, Gozdeck teaches the user interface comprising: a payout grid indicating the percentage of **quota achievement** and commission earned according to the **quota achievement** (Figure 3) in a compensation report (col. 7 lines 22 to col. 8 lines 33) wherein the variable payout factor is used to automatically adjust the variable compensation amount (i.e. when sales inputs change) (col. 2 lines 11-14 and 40-45, col. 5 lines 18-31 and 44-52, col. 6 lines 33-53, col. 8 lines 30-33, and Figure 3). Gozdeck also clearly points out that the report shown in Figure 3 is just an example how the compensation report could be organized, and anticipates the information to be displayed in a completely different manner and with different content for different companies or industries (col. 7 lines 64 to col. 8 lines 10). It would have been obvious to modify Gozdeck's sample compensation report to include a plurality of intersections where each intersection corresponds to a combination of a rate of handling customer inquiries and a measure of resolved inquiries when the compensation report is implemented in a call center

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environment, since it is well known for **quota achievement** for the call center agents to be characterized by a measurement of a combination of a rate of handling customer inquires and a measure of resolved inquires.

### **Response to Arguments**

23. After careful review of Applicant's remarks/arguments filed on 09/28/2005, the Applicant's arguments with respect to claims 18-56 have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to the abstract, specification, and to the claims have been entered and considered. Amendment to Figure 1 has not been considered, because this figure introduces new matter.

24. The previously made technological arts rejection under 35 USC § 101 has been removed in view of the precedential decision taken in Ex parte Lundgren.

25. Applicants amendment for claim 19 addressed the rejection made under 35 USC § 112, and this rejection has therefore been removed.

26. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

### **Conclusion**

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8105.

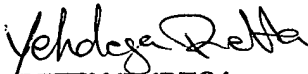
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direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

N.B.

January 26<sup>th</sup>, 2006

  
RETTA YEHDEGA  
PRIMARY EXAMINER